SINGAPORE REPORTS

KASSIM BIN ARIPPIN v. MOHAMED BIN RAMLAN

[O.C.J. (Winslow J.) March 20, 1970]

[Singapore — Civil Suit No. 586 of 1969]

Equity — Equitable estoppel — Expenditure to build house on another's land in expectation of an interest therein — Right to remain in occupation of the house.

In this case the facts as found by the court were that the defendant was in occupation of a piece of vacant land on which he built five terrace houses and that the plaintiff had paid $1,300 to the defendant for the purpose of having one of those houses for his occupation. After the houses were built the plaintiff occupied the house rent free but paid $15 per month for water and light. The plaintiff asked for a declaration that he was the owner of the house and for possession of the house. The defendant in his defence claimed that a sum of $1,395 was paid by the plaintiff as a loan to be discharged at the rate of $15 per month from future rents of the house.

Held: since the plaintiff had been induced by the defendant to expend money on the house in expectation of being allowed to occupy the house, the principle of *Inwards* v. *Baker*(1) would be applied and a declaration made that the plaintiff was entitled to remain in the house as his home, but subject to payment of water and electricity dues.

Case referred to:-

(1) *Inwards* v. *Baker* [1965] 1 All E.R. 446.

CIVIL SUIT.

M. Gunaratnam for the plaintiff.

Joe Chellam for the defendant.

Winslow J.: The plaintiff's claim against the defendant is as follows:—

(a) for a declaration that the plaintiff is the owner of the two houses known as Nos. 19-D and 19-E Jalan Ladang, Singapore;

(b) for possession of the house known as No. 19-E, Jalan Ladang, Singapore;

(c) for an account to be taken of the rent received by the defendant in respect of the house known as No. 19-E, Jalan Ladang, Singapore.

The undisputed facts are that sometime in 1958 the plaintiff, who was then a marine police officer, came to hear from the defendant's son, Ahmad bin Mohamed, D.W. 2, with whom he was then on friendly terms as his tutor in the art of self-defence, that there was some vacant land behind No. 19, Jalan Ladang on which the defendant intended to build five terrace plank-walled and zinc-roofed houses which he subsequently did. The land itself does not belong to the defendant but to the estate of Syed Ahmed bin Abdulrahman Alsagoff deceased to which the defendant pays two dollars per month as ground rent.

It is admitted by the defendant that the plaintiff paid him a total sum of $1,395 between February and May, 1959 when, according to him, the building of the houses was completed. The plaintiff, on the other hand, claims that he paid the defendant a sum of $1,300 in May 1958 and that the houses were completed in October, 1958.

The principal question in dispute is whether the sum of $1,300 as claimed by the plaintiff or $1,395 as admitted by the defendant was paid for the purchase of two out of the five houses erected, as the plaintiff claims, or was paid over as a loan to the defendant by the plaintiff to be discharged at the rate of $15 per month from future rents of $30 per month payable by the plaintiff for the house subsequently numbered 19-D, which the defendant allowed him to occupy from 1st June 1959 after the completion of the houses.

There is clearly some confusion on the plaintiff's part as to the date on which he moved into his house. He said the P.A.P. Government came into power in May, 1958 and he was clearly wrong in this. Whereas he claims that the buildings were completed in October, 1958, the defendant is supported by an entry (in his little red notebook) marked Ex. D3 and also another entry in the same notebook marked Ex. D2. The latter indicates the date on which the plaintiff entered into occupation of his house and above that entry are entered the amounts paid to him by the plaintiff in 1959.

It is significant that whereas the defendant is supported by his notebook, which was not challenged as having been fabricated and which I accept as a true record of what occurred in this connection, the plaintiff had no documentary evidence of any kind to support him at all. The plaintiff produced two witnesses (P.W. 3 and P.W. 4) who lent him little or no support on the salient issues in dispute. Moreover, he produced a contractor, Tan Eng Kwang, P.W. 2, who is supposed to have built the five houses, whose evidence in this respect I do not accept. It may well be true that this contractor made some extensions to the house occupied by the plaintiff in 1959 but the defendant denied that he had engaged this contractor at all to build the two houses. Whereas this contractor says that the defendant paid him $3,300 bit by bit for the construction of these houses, the defendant, who is supported by Ex. D3, said that he engaged a contractor namely Yap Choon Peng to build the houses at a contract price of $8,000. One can therefore hardly place much reliance on his evidence that the defendant told him the plaintiff had a share.

On all this evidence, I find it difficult to believe that the defendant would have been so foolish as to sell two out of the five houses for $1,300 whereas the total cost was $8,000 or at least $7,100 as shown in Ex. D3, being payments actually made to the contractor between November 1958 and March, 1959.

It is unfortunate that what commenced as a friendly arrangement on the part of the defendant to the plaintiff to accommodate the latter on his land because of the friendly relationship between the plaintiff and the defendant's son in 1958 seems to have deteriorated over the years to such an extent that only animosity and acrimony now exist between the parties who are at arm's length over the present dispute. The son was initially responsible for bringing them together and it was no doubt because of his anxiety to have his tutor in the art of self-defence resident on the land adjacent to No. 19 where he lived with the defendant that the defendant became interested in entering upon a venture

which promised to be beneficial to both the defendant and the plaintiff as well as to the defendant's son.

The plaintiff has expended money over and above the $1,300 which he paid to the defendant, in making extensions to his house and perhaps in helping to fill up the swampy land behind No. 19 with earth. The probabilities are that when the defendant needed money for his project he originally intended that the contribution of $1,300 made by the plaintiff in February 1959 should go towards making him entitled to a life interest in at least one house, no detailed specifications having been supplied to him by the plaintiff. This is probably why he has permitted the plaintiff to occupy No. 19-D from June 1959.

The plaintiff was not in dire need of accommodation as the defendant now claims. The house which he formerly occupied in Geylang Serai still exists and has not been demolished as suggested by the defence. I find that the plaintiff intended that his contribution of $1,300 should be utilised for the purpose of having a house, which he could call his own, built for him as his residence on a more permanent basis. I am satisfied that the $15 per month which he actually paid to the defendant was paid as his contribution towards water and light and not as part of any rent payable by him.

I am not prepared to believe that in its inception this contribution was merely a loan to be discharged from subsequent rents having regard to the fact that the defendant has allowed him to stay without claiming any rent for some considerable time after the $1,395 is alleged to have fully repaid at "deductions" of $15 per month.

Having regard to the principle enunciated in *Inwards* v. *Baker*[1] I find that the plaintiff has established his claim at least to a life interest in No. 19-D. The defendant, however, all along refused to let him occupy No. 19-E. The plaintiff never did anything about claiming No. 19-E for several years until the defendant commenced proceedings against him in respect of No. 19-D in the Civil District Court. As I have said the plaintiff has produced no documentary or other evidence in support of his claim to ownership of both houses. I have decided on the probabilities and in the light of the principle in the *Inwards* case that he has established a claim to a life interest in No. 19-D only. He was allotted No. 19-D as his share in the whole building project of the defendant. Even the defendant had no documentary evidence such as counterfoils of rent receipts to show that he merely rented No. 19-D to the plaintiff. As for No. 19-E, the defendant's refusal to allow the plaintiff occupation is consistent with his refusal to recognise that the plaintiff had any entitlement to it either as owner or as tenant, which I accept. In my judgment, the defendant was more than justified in allocating No 19-D to him as his share and no more.

There will be a declaration that the plaintiff is entitled to remain in the house known as No. 19-D Jalan Ladang, Singapore as his home for life or for as long as he wishes it to be his home, but subject to payment of water and electricity dues.

The remaining prayers fail but, in all the circumstances, it seems fair to me that I should award him only half of his taxed costs.

Judgment will be entered accordingly.

Judgment accordingly.

Solicitor: *M. Gunaratnam & Co.; Boswell, Hsieh & Lim.*

TAN LIAT HONG v. PUBLIC PROSECUTOR

[A.Cr.J. (Winslow J.) July 27, 1970]

[Singapore — Magistrate's Appeal No. 226 of 1969]

Gaming — Betting — Bookmaker — Evidence of expert — Betting Ordinance, 1960, ss. 5(3)(a), 8, 10 and 15.

The appellant was charged with acting as a bookmaker, an offence under section 5(3)(a) of the Betting Ordinance, 1960, on July 7, 1968 at 5.35 p.m. at the Singapore Turf Club. The prosecution evidence against him disclosed that a detective corporal who kept the appellant under observation on the day in question from 4.55 p.m. and 5.10 p.m. on the ground floor of the said club saw 4 persons approach the appellant one after the other, whisper to him and then leave. After all 4 had left the appellant wrote something in his official race programme. He then approached another person and after whispering to him he went back to his original place. Subsequently 6 other persons similarly approached him one after the other, whispered to him and then left. After all the 6 had left the appellant again wrote something in his race programme and then approached another person, whispered to him and then returned to his original place. After race No. 7 had been run the appellant again wrote something in his race programme. The detective then identified himself and arrested him as a suspected bookmaker and seized the race programme book and a ball point pen from him. According to the detective, he never saw the appellant going to the totalisator to buy tickets. A sum of $2,370 was found on the appellant at the time of his arrest.

Held, allowing the appeal: (1) in this case there were a number of inaccuracies in the expert's evidence as to make it unsafe to call upon the appellant for his defence and the appellant should have been acquitted at the end of the prosecution case;

(2) the fact that a sum of $2,370 was found on him was of little assistance in the absence of any adverse evidence as to how he came by this sum of money, as in this case the appellant was a businessman with an income of $3,000 per month and there was nothing sinister in his carrying this large sum on him at the Turf Club.

Observations on mode of giving expert evidence.

MAGISTRATE'S CRIMINAL APPEAL

Syed Hassan Almenoar for the appellant.

Isaac Paul Ratnam (Deputy Public Prosecutor) for the respondent.

Winslow J.: The appellant was charged before the eighth magistrate's court with acting as a bookmaker, an offence under section 5(3)(a) of the Betting Ordinance No. 30 of 1960, on 7th July, 1968 at 5.35 p.m. at the Singapore Turf Club.

The principal evidence against him was that of the detective corporal who kept him under observation from 4.55 p.m. until 5.10 p.m. on the ground floor of the Turf Club building facing the race course and who saw four male Chinese approach the appellant one